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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,334	05/11/2001	Dan Kikinis	004688.P016	7799
52940	7590	02/21/2006	EXAMINER	
TODD S. PARKHURST HOLLAND & KNIGHT LLP 131 S. DEARBORN STREET 30TH FLOOR CHICAGO, IL 60603			LAYE, JADE O	
			ART UNIT	PAPER NUMBER
			2617	
DATE MAILED: 02/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/854,334	KIKINIS ET AL.	
	Examiner	Art Unit	
	Jade O. Laye	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

I. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/27/06 has been entered.

Response to Arguments

II. Applicant's arguments filed 1/27/06 have been fully considered but they are unpersuasive.

Applicant argues *Clanton* fails to teach the ability to “select” at least one of a plurality of objects stored at a user’s location. However, the Examiner disagrees. *Clanton* does in fact teach that the user/system is allowed to select various objects within the 3-D space, which are then used to display other aspects of the EPG. (Col. 7, Ln. 7-18; Col. 8, Ln. 37-44; Col. 9, Ln. 15-21). As discussed in the previous Final Action, these objects and the other related data used to create the EPG, are stored at the user location. Thus, it is inherent the system select these objects when generating the EPG display. Accordingly, the unit would generate the EPG based upon a selection of various objects stored at the user’s location, thereby, anticipating the amended claim language also.

Applicant appears to argue there was no motivation to combine certain references within the present rejection. However, Applicant identifies the references as “cited IBM disclosures and U.S. Patent No. 6,005,601,” neither of which are applied in the present (or previous) rejection. Thus, the Examiner is not clear what Applicant is arguing and is unable to provide any rebuttal. Therefore, the rejections applied under 35 U.S.C. 103 are maintained.

Drawings

III. The drawings are objected to because the figures do not contain descriptive labels. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

IV. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

V. Claims 1, 2, 4-6, 8, 12-17, 23, 24, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by *Clanton, III et al.* (US Pat. No. 5,745,710).

Applicant's claim 1 recites a system comprising:

- a. a unit to generate an interactive 3-D EPG selecting at least one of a plurality of objects stored at a user's location; and
- b. a communication module coupled to a network in order to receive localized content

As to claim 1, *Clanton* discloses a system capable of generating a 3-D EPG (Fig. 7 & Col. 2, Ln. 43-67 thru Col. 3, Ln. 1-5) and displaying advertisements from local merchants (Col.

12, Ln. 14-17). It is inherent this localized content be provided via some form of communication module. Please refer to the previous arguments for a detailed explanation of the Examiner's position regarding the remaining limitations of claim 1. Accordingly, *Clanton et al* anticipate each and every limitation of claim 1.

Claims 12 and 23 are method and apparatus claims, respectively, which correspond to claim 1. Accordingly, they are analyzed and rejected as previously discussed.

As to claim 2, *Clanton* further discloses the system comprises a set-top box and a television. (Fig. 1). Accordingly, *Clanton et al* anticipate each and every limitation of claim 2.

Claims 14 and 24 are method and apparatus claims, respectively, which correspond to claim 2. Accordingly, they are analyzed and rejected as previously discussed.

As to claim 4, *Clanton* further discloses the system contains 3-D objects stored in memory (Col. 7, Ln. 15-18), which correspond to the programming events (Col. 8, Ln. 19-36 & Fig. 4-13). Selecting one of these 3-D objects will cause the system to display additional virtual worlds corresponding to the selected object. (Col. 9, Ln. 13-21). Accordingly, *Clanton et al* anticipate each and every limitation of claim 4.

Method claims 13 and 15 and apparatus claim 26 correspond to system claim 4. Accordingly, they are analyzed and rejected as previously discussed.

As to claim 5, *Clanton* further discloses a 3-D EPG containing the title (Fig. 5) and channel identification (Fig. 10) of a program. (Note: The USPTO considers applicant's "at least one of" language to be anticipated by any reference containing one of the subsequent corresponding elements.) Moreover, *Clanton* incorporates by reference U.S. Patent #4,706,121 to Young, which discloses an EPG containing category, title, date, and the start time of television

programs. (*Clanton* Col. 2, Ln. 4-11). Accordingly, *Clanton et al* anticipate each and every limitation of claim 5.

Claims 16 and 27 are method and apparatus claims, respectively, which correspond to the system claim 5. Accordingly, each is analyzed and rejected as previously discussed.

As to claim 6, *Clanton* further discloses the system can display advertisements from local merchants. (Col. 12, Ln. 1-17). Accordingly, *Clanton et al* anticipate each and every limitation of claim 6.

Claim 17 corresponds to the system claim 6. Thus, it is analyzed and rejected as previously discussed.

As to claim 8, *Clanton* further discloses the system displays the interior of 3-D objects, such as the “Critic’s Café” of Figure 6, after they have been selected. (Col. 9, Ln. 15-21). Accordingly, *Clanton et al* anticipate each and every limitation of claim 8.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

VI. Claims 3, 9, 18-22, 25, 28-30, and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Clanton* in view of *LaJoie et al.* (US Pat. No. 5,850,218).

Applicant’s claim 3 recites the system of claim 1, wherein the system includes a plurality of drivers, one of the drivers communicating with a separate unit to replenish programming

information. Applicant has defined driver as a “connector”, and the examiner interprets it accordingly. (Spec. Page. 8, Par. [0026]). As discussed above, *Clanton* anticipates each and every limitation of applicant’s claim 1, but fails to teach the limitations of claim 3. However, within the same field of endeavor *LaJoie* discloses a similar system which is connected to a plurality of units, which enables it to provide an EPG, web browsing, email, online services, Near Video on Demand, Pay-Per-View, and Video on Demand services. (Col. 2, Ln. 1-11). Moreover, the examiner takes Official Notice that it is well known in this art that an EPG is capable of replenishing programming information. Therefore, it would have been obvious to one ordinarily skilled in this art at the time of applicant’s invention to further modify the combined teachings of *Clanton* and *LaJoie* to further include a well-known method of replenishing the EPG system in order to supply the user with current and up-to-date programming information.

Claim 25 is an apparatus claims which corresponds to system claim 3. It is analyzed and rejected as previously discussed.

Applicant’s claim 9 recites the system of claim 8, wherein a subset of the virtual world is displayed as a matrix of rectangular boxes containing current programming information. As discussed above, *Clanton* contains all limitations of claim 8, and *LoJoie* further discloses the EPG contains a matrix of rectangular boxes containing current programming. (Fig. 16). Thus, *Clanton* and *LaJoie* contain all limitations of applicant’s claim 9.

Claims 20 and 30 are method and apparatus claims, respectively, which correspond to the system claim 9. Each is analyzed and rejected as previously discussed.

Applicant’s claim 18 recites the method of claim 17, wherein the memory in the system includes a third set of non-EPG objects including objects for e-commerce. Applicant did not

provide a clear definition of “non-EPG” objects, therefore the examiner interprets the term to be objects that do not correspond to programming events. As discussed above, *Clanton* contains all limitations of claim 17 and *Clanton* further teaches the use of “extras”, which advertise for various non-EPG services (pizza delivery, etc.). (Col. 12, Ln. 14-22). Combined with *LaJoie*’s online capabilities discussed above, these “extras” can be used in e-commerce. Therefore, it would have been obvious to one ordinarily skilled in this art at the time of applicant’s invention to further modify the combination of *Clanton* and *LaJoie* to also include the non-EPG “extras” teaching of *Clanton* in order to provide a method by which a user can partake in e-commerce.

Claim 28 corresponds to Claim 18. Thus, it is analyzed and rejected as previously discussed.

Claim 19 mirrors the language of claim 8. Thus, it is analyzed and rejected as discussed therein.

Applicant’s claim 21 recites the method of claim 20, further including uploading content of the third set of non-EPG objects in real time. As discussed above, *LaJoie* discloses an EPG with Internet capabilities and *Clanton* discloses an EPG capable of displaying localized content. Those of ordinary skill in this art recognize it would have been obvious in systems having Internet capability, that they receive streaming data via a server which retrieves the data in real-time. Therefore, further modifications of the combined teachings of *Clanton* and *LaJoie* would result in a system which is capable of uploading localized content in real-time. Accordingly, each limitation of applicant’s claim 21 is contained within the combined teachings of *Clanton* and *LaJoie*.

Claim 33 corresponds to claim 21. Thus, it is analyzed and rejected as previously discussed.

Applicant's claim 22 recites the method of claim 21, which further includes an interface for a user to interact with the localized content of the 3-D EPG. As discussed above, *Clanton* and *LaJoie* contain all limitations of applicant's claim 21, and *Clanton* further discloses a user interface in which the user can select "extras" corresponding to local services available to the user. (Col. 11, Ln. 54-67 through Col. 12, Ln. 1-17). Thus, *Clanton* and *LaJoie* contain all limitations of claim 22.

Claim 34 corresponds to claim 22. Each is analyzed and rejected as previously discussed.

Claim 29 mirrors the language of claim 8. Thus, it is analyzed and rejected as discussed therein.

Applicant's claim 32 mirrors the language of claim 6. Thus, it is analyzed and rejected as discussed therein.

VII. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Clanton III, et al* in view of *Hassell et al.* (US Pat Pub. No. 2004/0107439).

Applicant's claim 7 recites the system of claim 4, wherein the memory in the system includes a third set of non-EPG objects including objects for e-commerce which correspond to programming events. As discussed above, *Clanton* contains all limitations of claim 4 and *Clanton* further teaches the use of "extras", which advertise for various services (pizza delivery, etc.). (Col. 12, Ln. 14-22). But, *Clanton* fails to teach these "extras" being used for e-commerce items related to programming events. However, within the same field of endeavor, *Hassell*

discloses a similar system which provides an EPG capable of providing e-commerce items that correspond to programming events. (Abstract; Fig. 32; Pars. [0003, 0144]). Therefore, it would have been obvious to one ordinarily skilled in this art at the time of applicant's invention to combine *Clanton* and *Hassell*, thereby providing a system which gives the user immediate access to data related to programming.

Applicant's claim 10 recites the system of claim 7, wherein the localized interactive content of the third set of objects is uploaded in real time. As discussed above, *Hassell* discloses an EPG with e-commerce (i.e., internet) capabilities and *Clanton* discloses an EPG capable of displaying localized content. Those of ordinary skill in this art recognize it would have been obvious in systems having Internet capability, that they receive streaming data via a server which retrieves the data in real-time. Therefore, further modifications of the combined teachings of *Clanton* and *Hassell* would result in a system which is capable of uploading localized content in real-time. Accordingly, each limitation of applicant's claim 10 is contained within the combined teachings of *Clanton* and *Hassell*.

Applicant's claim 11 recites the system of claim 10, which further includes an interface for a user to interact with the localized content of the 3-D EPG. As discussed above, *Clanton* and *Hassell* contain all limitations of applicant's claim 10, and *Clanton* further discloses a user interface in which the user can select "extras" corresponding to local services available to the user. (Col. 11, Ln. 54-67 through Col. 12, Ln. 1-17). Thus, *Clanton* and *Hassell* contain all limitations of claim 11.

VIII. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Clanton* in view of *LaJoie* as applied to claim 30 above, and further in view of *Kamen et al.* (US #6,421,067).

Applicant's claim 31 recites the storage medium of claim 30, wherein a user of the system chooses a virtual world to display programming information. As discussed above, *Clanton* and *LaJoie* contain all limitations of claim 30 but fail to disclose a method by which the user is allowed to choose the virtual world that displays the program information. However, in the same field of endeavor, *Kamen* discloses a 3-D EPG system in which the user, via a remote control, can modify the EPG surfaces. *Kamen* allows the user to choose lighting, color, texture, or positions of objects within the 3-D space. (Col. 3, Ln. 35-65). Even though the user is not allowed to choose a completely new virtual world, he is still allowed to choose certain characteristics of the virtual world, which give it a new look and feel. Choosing a different virtual world is only an obvious variant to manipulating the existing virtual world to give it a different look and feel, as in *Kamen*. Accordingly, it would have been obvious to one of ordinary skill in this art at the time of applicant's invention to combine the teachings of *Clanton* and *LaJoie* with the virtual world manipulating capabilities of *Kamen* in order to provide the user with a method of selecting and personalizing a virtual world of their choosing.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye *JL*
February 15, 2006.


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600